

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-4, 6-7, 21-31 and 35-51 are pending in the application, with claims 1, 21 and 29 being the independent claims. Based on the following Remarks, the Applicants respectfully request that the Examiner reconsider and withdraw all outstanding objections and rejections.

Interview Summary

The Applicants appreciate the time and attention extended by Examiner Johns and Examiner Fischer during the interview conducted on June 30, 2009. During the interview, the Applicants clarified the amendment filed June 17, 2008 with respect to provisional application S/N 60/474,750. The Applicants also clarified the support in the specification for each claim rejected under 35 U.S.C. §112, first paragraph. The Applicants proposed to amend independent claim 29 to clarify the authentication excluding biometric information to overcome the claims rejected under 35 U.S.C. §112, second paragraph. The Applicants proposed amending independent claim 1, 21 and 29 to clarify the storage of the biometric template at the personal identification device. Although exact language was not agreed on, the Examiners agreed that claim amendments including these clarifications appear to distinguish over the cited art but that further search would be required.

Claim Rejections under 35 U.S.C. § 112, 1st Paragraph

Claims 29-31, 35-37, 40 and 41-45 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner points to “the authentication excluding biometric information” as recited in independent claim 29 as lacking support in the specification. Independent claim 29 has been amended to “the request including an acknowledgement of an authentication of the biometric information of the user performed at the personal identification device, the acknowledgement excluding biometric information.” As discussed during the interview,

the subject matter is supported in the specification at paragraph [0098] and new paragraph 3 inserted between paragraphs [0112] and [0113] shown in the amendment filed June 17, 2008. A “travel permission information excluding biometric information” as recited in claim 41 is supported in the specification. As discussed during the interview, the subject matter is supported in the specification at paragraph [0098] and new paragraph 3 inserted between paragraphs [0112] and [0113] shown in the amendment filed June 17, 2008.

Examiner cannot locate in the specification as originally filed the subject matter “substantially at a time of ignition of a vehicle” as recited in claims 41 and 44. Claims 41 and 44 have each been amended to recite “substantially at a time of ignition of a vehicle and not before the ignition of the vehicle.” As discussed during the interview, the subject matter is supported in the specification at paragraph [0108]. During the interview, the Examiners asked the Applicants to clarify the language “with limited additional equipment” in paragraph [0108]. This language refers to the various options described in paragraphs [0109] – [0112]. For example, one option is to add a long-range transponder, such as, for example, a radio to the vehicle to help transmit data between the personal identification device and a remote party (e.g., a travel-governing institution).

Examiner cannot locate in the specification as originally filed the subject matter “inhibiting output of a signal to a kill switch...” as recited in claim 43. As discussed during the interview, the subject matter is supported in the specification at paragraphs [0100], [0105] and [0110]. Specifically, the travel privilege certificate can only be sent from the personal identification device if the individual has been authenticated. See paragraph [0100] of the specification. This authentication can be a biometric authentication. See paragraph [0105] of the specification. Thus, if the biometric authentication is not authentic, the travel privilege certificate is not sent from the personal identification device. If the kill switch determines that no certificate at all was received, it can safely disable the vehicle. See paragraph [0110] of the specification. Accordingly, the Applicants request that these rejections be withdrawn.

Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph

Claims 29-31, 35-37, 40-42 and 45 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Specifically, the Examiner asserts that “an authentication of the biometric information...the authentication excluding biometric information” as recited in independent claim 29 is indefinite because it is impossible to construe claim scope. Independent claim 29 has been amended as discussed above in connection with the rejection under 35 U.S.C. § 112, first paragraph. Accordingly, the Applicants request that this rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

Amendment Filed June 17, 2008

The amendment filed June 17, 2008 stands objected under 35 U.S.C. § 132(a) for introducing new matter into the disclosure. Specifically, the Examiner asserts that Figure 7 and Figure 8 in the drawings and the three new paragraphs inserted between paragraphs [0112] and [0113] introduce new matter. As discussed during the interview, the specification as originally-filed incorporated provisional application S/N 60/474,750 by reference in its entirety. See paragraph [0001] of the specification. Figure 7 and Figure 8 correspond to Figure 1 and Figure 2, respectively, of provisional application S/N 60/474,750. See page 35 (labeled as page 21) of the provisional application S/N 60/474,750. The first paragraph of the three new paragraphs inserted between paragraphs [0112] and [0113] are based on Figure 1 and Figure 2 of the provisional application S/N 60/474,750. The second and third paragraphs of the three new paragraphs inserted between paragraphs [0112] and [0113] are based on lines 11-21, page 25 (labeled as page 11) and lines 9-18, page 77 (labeled as page 15), respectively, of the provisional application S/N 60/474,750. Accordingly, the Applicants request that the objections be withdrawn.

The Claims are Patentable over Sehr

Claims 1-4, 6, 7, 21-31, and 35-40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,085,976 to Sehr (“*Sehr*”). The claims are patentable over *Sehr* for the reasons below.

Independent claim 1 as amended recites “at least one personal identification device including a means for authenticating at the personal identification device the identified individual based on a biometric, the personal identification device configured such that the biometric is not output from the personal identification device.” See new paragraph 3 inserted between paragraphs [0112] and [0113] shown in the amendment filed June 17, 2008. *Sehr* fails to disclose or suggest such a personal identification device.

During the interview, the Examiner pointed to biometric box (13) as being the personal identification device that included a means for authentication a user at biometric box (13). The Applicants do not agree that biometric box (13) is a personal identification device. In addition, *Sehr* is entirely silent with respect to a “personal identification device configured such that the biometric is not output from the personal identification device,” as recited in independent claim 1. Rather, *Sehr* merely discloses a biometric box (13), biometric modules (111.2) and (112.2) and a passenger card (11) that outputs the biometric from each device. Specifically, the biometric box (13) imprints the biometric onto the passenger card (11) and loads the biometric into databases. See lines 52-57, col. 6 of *Sehr*. The biometric modules (111.2) and (112.2) can load captured biometric into the passenger card (11) or databases. See lines 4-12, col. 13 of *Sehr*. The passenger card (11) must transmit the biometrics information previously stored in the passenger card (11) so the biometrics modules (111.2) and (112.2) can compare it with the captured data. See lines 4-12, col. 13 of *Sehr*. In sum, the biometric box (13), the biometric modules (111.2) and (112.2) and the passenger card (11) each output the biometric. Accordingly, independent claim 1 and its dependent claims are patentable over *Sehr*.

Unlike independent claim 21, which as amended recites “authenticating, at a personal identification device, a biometric input from a user based on a biometric template stored at the personal identification device and associated with the user without sending the biometric template from the personal identification device,” *Sehr* fails to disclose or suggest such an authentication. As discussed above in connection with independent claim 1, *Sehr* is entirely silent with respect to a personal identification device that authenticates biometric information at the personal identification device where the biometric information is not sent from the personal identification device. Specifically, the biometric box (13), the biometric modules (111.2) and (112.2) and the passenger card (11) each output the biometric to another device and, thus, the biometric information at each of these devices is sent from that device. Accordingly, independent claim 21 and its dependent claims are patentable over *Sehr*.

Unlike independent claim 29, which as amended recites “receiving a request for a travel permission information from a personal identification device associated with a user, the request including an acknowledgement of an authentication of the biometric information of the user performed at the personal identification device without the biometric information of the user being sent from the personal identification device, the acknowledgement excluding biometric information,” *Sehr* fails to disclose or suggest such a method. As discussed above in connection with independent claims 1 and 21, *Sehr* is entirely silent with respect to a personal identification device that authenticates biometric information of the user where the biometric information is not sent from the personal identification device. Thus, independent claim 29 and its dependent claims are patentable over *Sehr*.

The Claims are Patentable over Sehr in view of Examiner’s Official Notice

Claims 41-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sehr* in view of Official Notice. Specifically, the Examiner takes Official Notice that re-verifying information during operation was well-known in the art because it created more secure systems. Examiner points to examples such as software copy protection, timed logouts on websites and other information services. Examiner asserts that the security is

increased because if a user borrows the piece of data necessary to gain access, re-verifying the information may make it harder for that user to continue access.

The claims are patentable over *Sehr* in view of Official Notice for the following reasons. The claims are patentable over *Sehr* because they depend from one of independent claims 21 and 29, which the Applicants submit are patentable as discussed above. The Official Notice fails to remedy the deficiencies of *Sehr*. Thus, claims 41-45 are patentable over *Sehr* in view of the Official Notice. Please note that claim 42 does not relate to subject matter regarding re-verification.

Moreover, the Examiner's use of Official Notice in this circumstance is inappropriate. As discussed for example at paragraph [0108], if a vehicle equipped with the personal identification device is hijacked, the vehicle will become disabled when the operator must authenticate himself during operation of the vehicle. Although the passenger card of *Sehr* enables ignition of the vehicle, *Sehr* fails to disclose verifying the collected identification information after ignition of the vehicle (e.g., when the vehicle is in operation). See lines 34-39, col. 37 of *Sehr*. Accordingly, in *Sehr*, a hijacker does not need to authenticate himself while the vehicle is in operation and, thus, can drive the vehicle anywhere.

Each of the examples asserted by the Examiner, however, deal with software copy protection or logging into a website. A vehicle in a state of being ignited is significantly different from the vehicle in a state of continuing operation after ignition. During ignition, the vehicle is stationary and initiates activation of the vehicle's components. During continuing operation, the vehicle is generally in a state of travel. Biometrically authenticating at these different states is not a re-verification analogous to software copy protection or website timeouts, which relate to common usage state. Accordingly, Examiner's use of Official Notice is inappropriate and the Applicants request that the use of Official Notice be withdrawn.

The Claims are Patentable over Sehr in view of "Practical Traveler; Airline Tickets as Presents"

Claims 1-4, 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being anticipated by *Sehr* in view of "Practical Traveler; Airline Tickets as Presents" ("*Practical Traveler*"). The claims are patentable over *Sehr* in view of *Practical Traveler* for the following reasons. The claims are patentable over *Sehr* for at least the reasons discussed above. *Practical Traveler* fails to remedy the deficiencies of *Sehr*. Thus, claims 1-4, 6 and 7 are patentable over *Sehr* in view of *Practical Traveler*.

New Claims 46-51 are Patentable

It is respectfully submitted that the dependent claims 46-51 are patentable over the cited references at least because they depend from independent claims 21 or 29, which the Applicants submit are patentable as discussed above.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed or rendered moot. The Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding objections and rejections. The Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this application is respectfully requested.

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Respectfully submitted,

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